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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/982,225
Filing Date: October 18, 2001
Appellant(s): FELTON ET AL.

Duane N. Moore
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 28, 2008 appealing from the Office action mailed September 6, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US Pub., No. 2002/0095355 A1 to Walker et al.

Official Notice

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub. No. 2002/0095355 A1 to Walker et al. (further referred to as Walker), and further in view of Official Notice.

Walker discloses a method, computer system, and a program storage device with program instructions for verifying a value of goods on a supplier invoice (pages 1-10), comprising:

Compiling input of supplier invoice data where the data is a value claimed on an import declaration and a payment invoice (page 4, paragraph 50; page 8, paragraph 87),

Where the values are compared (page 8, paragraphs 87-88; page 9, paragraphs 97 and 101; page 10, paragraph 111),

Where users are alerted if discrepancies are found in the values (page 8, paragraphs 87-88; page 9, paragraph 97),

Where a payment is made if the values are not discrepant (page 1, paragraphs 11-14).

Walker discloses where the sampling size equals the total number of all supplier invoices compiled in a data processing system (pages 1-10). Walker does not disclose where the sample size is greater than the sampling size used in the United States Customs Service audits. However, Walker discloses where the steps are performed for all gathered data, and as an audit may include all or less than all of the data, it would be obvious that verifying all of the data as disclosed by Walker discloses where the sample size is greater than the sampling size used in the United States Customs Service audits. It is not possible to verify more data than has been gathered and as Walker verifies all data, this sample size of all invoices is a sample size greater than a sample size used in an audit where some or all of the data is verified.

Walker does not disclose where daily data is compiled into a weekly statistical sample, where a sample size is 30 invoices. However, Examiner takes Official Notice that the technique of statistical sampling is old and well known and would be obvious to one of ordinary skill in the art at the time of the invention for making calculations using the invoice data as disclosed by Walker. Gathering data on a daily basis and generating weekly statistics therefrom would be obvious to one of ordinary skill in the art at the time of the invention. Selecting various sample sizes, such as 30 invoices, would be obvious to one of ordinary skill in the art at the time of the invention. The

manipulation of data for statistical purposes can be performed in an infinite array of combinations as the user desires for their purpose of reviewing the gathered data. The selection of sample size can also be determined based on how samples a user deems necessary in order to represent the population as a whole, the concept of sampling being old and well known.

(10) Response to Argument

The Appellant's arguments have been considered but are not persuasive.

The system, method, and program storage device with program instructions for verifying a value of goods on a supplier invoice as disclosed in the present application teaches a means of performing those steps as are performed by the United States Customs Service. As disclosed in the background on page 2, the United States Customs Service performs audits to verify and compare the value of goods as declared versus the value as actually paid. This is performed under 19 U.S.C. 1509. Suppliers are required to conform and meet the requirements as set forth by the United States Customs Service and an organization to internally mimic the audit process using old and well known statistical sampling in order to assure compliance with the regulatory authorities makes common business sense. The disclosure of the present application teaches on page 2 that internal systems perform such verification at the time of an audit. *Accordingly, verifying a value of goods on a supplier invoice through sampling and comparing values on an import declaration and on a payment invoice are*

admittedly performed by both the United States Customs Service and internally by organizations seeking to comply with government regulations.

Applicant argues specifically in the current amendment that Walker does not mention automated payments or comparing the value claimed on an import declaration with the value claimed on a payment invoice. Applicant further argues that paragraph 14 of the Walker reference does not constitute prior art as it was not disclosed in the provisional application. Additionally, Applicant argues Examiner's use of Official Notice regarding statistical sampling and use thereof.

First, the use of paragraph 14 from the Walker disclosure is proper because the paragraph is within the Description of Prior Art section of the disclosure. Walker is not disclosing a new form of payment in his disclosure, but is stating as prior art that making payments at the end of a transaction is old and well known prior art. Further, Walker discloses where the system facilitates the payment between parties (page 9, paragraphs 98-99). Further, it is old and well known to make automatic payments upon the satisfaction of certain predefined conditions, this type of automatic payment system being described in a multitude of settings. Additionally, in the context of the Walker disclosure, Examiner cites *In re Venner*, 262 F.2d 91, 95, 1209 USPQ 193, 194 (CCPA 1958) wherein it has been decided that the automation of a known manual process is an obvious variation of the manual process.

Second, Examiner points to the sections as detailed in the Grounds of Rejection above where Walker compares values of required regulatory documents to ensure compliance with Federal regulations regarding customs, specifically at page 4,

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paragraph 50 for an invoice and page 8, paragraph 87 for declarations. Walker further discloses where the values are compared (page 8, paragraphs 87-88; page 9, paragraphs 97 and 101; page 10, paragraph 111), and where users are alerted if discrepancies are found in the values (page 8, paragraphs 87-88; page 9, paragraph 97). The purpose of the Walker invention is to ensure that international trade is conducted in a manner such that all regulatory requirements are met using a computer-implemented system to account for the complete trade process on behalf of buyers and sellers. In the sections as outlined, Walker performs all necessary steps of ensuring proper documentation is submitted and that the documentation is accurate for meeting U.S. Customs requirements.

Finally, regarding the arguments of use of Official Notice for statistical sampling and use thereof. As support for the use of Official Notice, Examiner relies on the disclosure of statistical sampling which is part of the record (Turner), used in previous Office Actions. Statistical sampling is old and well known. Taking an entire population of data or a portion of data are old and well known sampling techniques. The more data that is taken, the more accurate the statistic would be, this is the basic nature of statistics and sampling. As stated in the preceding section of the arguments, suppliers are required to conform and meet the requirements as set forth by the United States Customs Service and an organization to internally mimic the audit process using old and well known statistical sampling in order to assure compliance with the regulatory authorities makes common business sense. Whether data is gathered hourly or daily or any unit of time, and whether reports are developed hourly or daily or weekly or by any

other unit of time is part of the discretion of the individual performing the statistical analysis. There are in infinite number of combination that a user can implement when collecting and calculating data but they all fall within the old and well known use of statistical analysis.

The Courts have stated that "[w]hen a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, §103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill." *KSR Int'l Co. v. Teleflex, Inc.* 127 S. Ct. 1727, 1740, 92 USPQ2d 1385, 1396 (2007). *Mimicking a process as established by the United States Customs Service to verify invoice and declaration values match, using known statistical techniques, is a predictable variation to the process as made available by the United States Customs Service in meeting the established Federal requirements and in which it only makes sense for a business to follow the law.*

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jennifer Liversedge/

Examiner, Art Unit 3692

Conferees:

/Kambiz Abdi/

Supervisory Patent Examiner, Art Unit 3692

Vincent Millin /VM/

Appeals Practice Specialist